

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LONNIE D. MINTON-JOHNSON,

Defendant.

8:04CR542

ORDER

Defendant Lonnie D. Minton-Johnson (Minton-Johnson) appeared before the court on September 25, 2006, on a Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 32). Minton-Johnson requested additional time in which to retain private counsel. The hearing was continued to 10:00 a.m. on September 28, 2006, for a combined preliminary and detention hearing. In the meantime, Minton-Johnson was remanded to the custody of the U.S. Marshal.

Minton-Johnson again appeared before the court on September 28, 2006. He was represented by Paul M. Gnabasik and the United States was represented by Assistant U.S. Attorney Frederick D. Franklin. Through his counsel, Minton-Johnson requested a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). The hearing was scheduled for October 3, 2006. On October 16, 2006, Minton-Johnson waived a probable cause hearing (Filing No. 37). I find that the Report alleges probable cause and that Minton-Johnson should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

At the September 25, 2006 hearing, the government moved for detention. A detention hearing was scheduled for September 28, 2006. On September 28, 2006, the court took judicial notice of the report and a Pretrial Services report. Further, the court heard the testimony of Robert Johnson, the defendant's father, who offered to be a third-party custodian for the defendant. Since it is Minton-Johnson's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Minton-Johnson has failed to carry his burden and that Minton-Johnson should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 10:30 a.m. on December 1, 2006.** Defendant must be present in person.

2 Defendant Lonnie D. Minton-Johnson is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility.

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 6th day of November, 2006.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge